

# SENATE NO. 1133

## **AN ACT** IMPROVING AND EXPANDING BEHAVIORAL HEALTH SERVICES FOR CHILDREN IN THE COMMONWEALTH

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1   SECTION 1.

2   Chapter 6 of the General Laws is hereby amended by inserting after section 214 the following new  
3   section:-

4           Section 215. The mental health commission for children, established by section 77 of chapter 177 of  
5   the acts of 2001, shall be made permanent for the purpose of advising the governor and the commissioner of  
6   mental health on implementation of the recommendations contained in the commission's report dated July 1,  
7   2005 and on any such future reports developed by the commission. The commission shall prepare and issue a  
8   public report concerning the implementation of such recommendations, on an annual basis, and shall file a copy  
9   of such report with the senate and house committees on ways and means, the committee on mental health and  
10   substance abuse, the mental health legislative caucus, and the children's legislative caucus.

11  
12   SECTION 2. Chapter 6A of the General Laws is hereby amended by inserting after section 16O the following  
13   new section:-

14           Section 16P. (a) There shall be a children's behavioral health research and evaluation council within,  
15 but not subject to control of, the executive office of health and human services. The council shall be responsible  
16 for creating and sustaining the capacity within the executive office and its constituent agencies for annually  
17 determining the demand, delivery, cost, effectiveness, and gaps in the behavioral health services for children  
18 and adolescents across state agencies. The work of the council shall be designed to promote high-quality, safe,  
19 effective, timely, efficient, equitable, family-centered, culturally competent and linguistically appropriate  
20 behavioral health care for children through research and reporting and other related activities, including, but not  
21 limited to, training, accountability, program evaluation, and continuous quality improvement. The council shall  
22 receive staff assistance from the executive office of health and human services and may, subject to  
23 appropriation, employ such additional staff or consultants as it may deem necessary.

24           (b) The council shall consist of the secretary of health and human services, the auditor of the commonwealth or  
25 his designee, the inspector general or his designee, the attorney general or his designee, the commissioners of  
26 mental health, social services, early education and care, youth services, mental retardation, education, public  
27 health, youth services, insurance, the director of the office of medicaid and persons to be appointed by the  
28 governor, at least 1 of whom shall be a board certified pediatrician, at least one of whom shall be a board  
29 certified child psychiatrist, at least one of whom shall be a licensed social worker, at least 1 of whom shall be a  
30 parent or a consumer of children's behavioral health services, at least 1 of whom shall be a representative of a  
31 hospital with specialized expertise in the care of children, at least 1 of whom shall be representative of hospitals  
32 who provide inpatient substance abuse and or behavioral health services to children, at least 1 of whom shall be  
33 representative of an organization with expertise in implementing evidence based children's behavioral health  
34 services, at least 1 of whom shall be an expert in health care policy from a foundation or academic institution, 1  
35 of whom shall represent a non-governmental purchaser of health insurance and 1 of whom shall represent a  
36 community-based children's services provider. The nongovernmental appointees shall serve staggered 3-year  
37 terms. The council shall be chaired by the secretary of health and human services.

38 (c) The council shall develop and coordinate the implementation of evidence-based measures of effective  
39 children's behavioral health services. For this purpose, the council shall identify the steps needed to achieve  
40 this goal; estimate the cost of implementation; project the anticipated short-term or long-term financial savings  
41 achievable to the commonwealth, and estimate the expected improvements in the behavioral health status of  
42 children in the commonwealth.

43 (d) The council may, subject to chapter 30B, contract with an independent research organization to provide the  
44 council with technical assistance related to its duties including, but not limited to, the development of research  
45 and evaluation programs, evidence-based analyses, performance measurement benchmarks, the design and  
46 implementation of children's behavioral health interventions and the preparation of reports, including any  
47 reports as required by this section. The independent health care organization shall have a history of  
48 demonstrating the skill and expertise necessary to:

49 (1) collect, analyze and aggregate data related to costs and effectiveness across the behavioral health  
50 care continuum;

51 (2) identify, through data analysis quality improvement areas;

52 (3) work with medicare, masshealth, other payers' data and clinical performance measures;

53 (4) collaborate in the design and implementation of evidence-based improvement measures;

54 (5) establish and maintain security measures necessary to maintain confidentiality and preserve the  
55 integrity of the data; and

56 (6) design and implement behavioral health care quality improvement interventions with behavioral  
57 health care service providers. To the extent possible, the independent organization shall collaborate  
58 with other organizations that develop, collect and publicly report behavioral health care cost and  
59 quality measures; and

(7) recommend and support strategies to increase the numbers of children's mental health providers with an emphasis on reducing health disparities.

(e) Any independent organization under contract with the council shall develop and update on an annual basis a reporting plan. The reporting plan shall be consistent with the requirements of subsections (a) and (b).

(f) The council shall develop performance measurement benchmarks for its goals and publish such benchmarks annually. Any data reported by the council should be accurate and evidence-based, and not imply distinctions where comparisons are not statistically significant.

(g) The council shall review and file a report, not less than annually, with the joint committee on children's mental health, the joint committee on health care finance and the clerks of the house and senate on its progress in achieving the goals of improving the effectiveness of children's behavioral health programs and filling gaps in the availability of such programs for children who qualify for and need such services. This report shall include an analysis of the racial and ethnic disparities that exist in the availability of appropriate behavioral health services.

(h) The council may recommend legislation or regulatory changes, including recommendations for the commonwealth's behavioral health services payment methodologies to promote the behavioral health care quality and cost containment goals set by the council, and the council may promulgate regulations under this section.

(i) Subject to appropriation, the council may disburse funds in the form of grants or loans to assist members of the children's behavioral health care industry in implementing the goals of the council.

(j) All meetings of the council shall conform to chapter 30A, except that the council, through its bylaws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

(k) The members of the council shall not receive a salary or per diem allowance for serving as members of the council, but shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties. The expenses may include reimbursement for reasonable travel and lodging expenses while engaged in council business.

(l) The council may, subject to chapter 30B and subject to appropriation, procure equipment, office space, goods and services, including the development and maintenance of a website

SECTION 3. Chapter 6A of the General Laws is hereby amended by inserting after section 16P the following new section:-

Section 16Q. (a) There shall be established within the executive office of health and human services an office of compliance coordination headed by a compliance coordinator and adequately staffed to provide administrative oversight, monitoring, and implementation of the remedial plans and court orders in *Rosie D. v. Romney*, 410 F. Supp. 18 (D. Mass. 2006).

(b) The compliance coordinator shall be appointed by and report directly to the secretary of health and human services and shall report directly to the secretary of health and human services.

(c) The compliance coordinator shall facilitate compliance with the plans and orders in *Rosie D. v. Romney* across executive office of health and human services agencies and shall have the necessary authority to review, evaluate, design, and implement activities to facilitate compliance with remedial plans and court orders by executive office of health and human services agencies and employees.

(d) The compliance coordinator shall be the primary liaison to any court-appointed monitor, special master or other appointed agent of the court in *Rosie v. Romney* and shall assist any such court officer to have access to all

105 information, data, reports or other related documents that in the possession of executive office of health and  
106 human services agencies or their contractors and are necessary to monitor compliance with court orders.

107

108 (e) The compliance coordinator shall issue reports at least quarterly that shall describe executive office of health  
109 and human services activities related to compliance with the remedial orders of the court and shall identify any  
110 obstacles to compliance. All reports issued by the compliance coordinator shall be filed with the senate and  
111 house committees on ways and means, the joint committee on mental health and substance abuse and the joint  
112 committee on health care financing.

113

114 (f) Any expenditure made pursuant to this section shall be regarded as an expenditure under the  
115 Commonwealth's title XIX Medicaid plan.

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117 SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 16Q the following  
118 new section:-

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120 Section 16R. (a) As used in this section, the following words shall, unless context clearly requires  
121 otherwise, have the following meanings:-

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123 “Child”, a person who has not reached 22 years of age. Where action is to be taken at a multi-agency  
124 hearing by a child or on its behalf, it shall be taken by such child if age 18 or older unless such child has been  
125 determined to be incompetent. For younger children the action shall be taken by the parent or parents or legal  
126 guardian, provided that, where the rules of any covered agency recognize that children under age 18 have  
127 competence to make certain decisions, such rules shall be followed where they apply.

128

129 “Child with complex needs”, a child with a diagnosable behavioral disorder, emotional disturbance,  
130 mental retardation, developmental disability, or multiple disabilities that are so severe and long-lasting that it

131 seriously interferes with the child’s functioning in family, school, community or other major life activities and,  
132 by reason of such severe disability, the child needs more than a service provided by a single agency or facility  
133 such as out-patient behavioral health services, in-patient behavioral health services, or other behavioral health  
134 services of brief duration and, in addition to or instead of such services, needs services that are provided or  
135 arranged by multiple covered agencies and a comprehensive set of services provided through a coordinated plan  
136 of care.

137

138 “Covered agency”, any executive branch office, department or other division of the Commonwealth that  
139 provides behavioral health services to children, including state contracted service providers and including, but  
140 not limited to, the department of mental health, department of mental retardation, the office of medicaid, the  
141 department of education, the department of early education and care, the department of social services, the  
142 department of public health and the department of youth services.

143

144 “Developmental disability”, a severe, chronic disability of an individual that:

145 (1) is attributable to a behavioral or physical impairment or combination of behavioral and physical  
146 impairments;

147 (2) is manifested before the individual attains age 22;

148 (3) is likely to continue indefinitely;

149 (4) results in substantial functional limitations in major life activities; and

150 (5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic  
151 services, individualized supports, or other forms of assistance that are of extended duration and are  
152 individually planned and coordinated.

153

154 “Diagnosable mental disorder”, a disorder that meets the diagnostic criteria as described in the most  
155 recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric  
156 Association or the International Classification of Diseases and Related Health Problems.

157

158 “Emotional disturbance”, a long-lasting condition that severely affects a child's behavior and

159 functioning in any of the following respects:

160 (1) an inability to function in family, school, or community that cannot be explained by intellectual

161 sense rate or general health factors;

162 (2) an inability to build or maintain satisfactory interpersonal relationships with peers and adults;

163 (3) inappropriate behavior or feelings under normal circumstances;

164 (4) a pervasive mood of unhappiness or depression; and

165 (5) the persistence of physical symptoms of fear associated with personal, family, or school problems.

166

167 “Mental retardation”, significant sub-average general intellectual functioning existing concurrently with

168 deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's

169 functioning in school, family, and community settings

170

171 “Multi-Agency Hearing (MAH)”, an administrative hearing triggered by the filing of a complaint by or

172 on behalf of a child with complex needs and presided over by a hearing officer appointed by the executive

173 office of health and human services. The hearing shall be conducted subject to the rules outlined herein and any

174 executive office of health and human services regulations promulgated pursuant to subsections (e), (f), (g) and

175 (h).

176

177 “Multi-agency team (MAT)”, geographically-based teams established by the executive office of health

178 and human services pursuant to section (b) and composed of representatives of 2 or more Covered Agencies

179 meeting regularly to provide coordinated services to children requiring services from more than one covered

180 agency.

181



182 “Multiple disability”, the co-occurrence of the disabilities defined in this section, such as, but not  
183 limited to, mental retardation and emotional disturbance or mental illness and substance abuse, the combination  
184 of which adversely affects a child's functioning to the extent that the child's service needs cannot be met by  
185 attributing the functional impairment to a single diagnosis or condition.

186  
187 (b) The executive office of health and human services shall establish multi-agency teams (MAT) and  
188 promulgate rules and regulations consistent with the provisions of this section for their composition, procedures,  
189 responsibilities and powers. Any person may refer a child with complex needs to the appropriate MAT.

190  
191 (c) Any covered agency that conducts an intake assessment, eligibility determination, or other assessment of  
192 behavioral health needs of children shall provide or refer the child for a diagnostic assessment sufficient to  
193 determine whether the child is a child with complex needs. The covered agency shall notify the child and the  
194 parents or guardian of the results of the diagnostic assessment and, if the child is identified as a child with  
195 complex needs, the covered agency shall inform the child and the parent or guardian that they may request  
196 referral to an MAT for a comprehensive determination of needs and the development and implementation of a  
197 MAT service plan.

198  
199 (d)(1) Any participant in a MAT proceeding concerning a child with complex needs not involving a local  
200 educational agency which a comprehensive review by the MAT has not resulted in a decision agreeable to all  
201 participants may request either: (i) a multi-agency hearing (MAH); or (ii) that the executive office of health and  
202 human services agency commissioners resolve the dispute at the next meeting of such commissioners following  
203 at least 10 days after the written request for action by such commissioners. If no resolution of the problem is  
204 produced at such meeting of the commissioners or if the resolution reached is not satisfactory to a child seeking  
205 services or his parents, any participant in the MAT proceeding may initiate a MAH.

206

207 (2) If a MAT proceeding concerning a child with complex needs which failed to reach a solution was one in  
208 which a local educational agency was involved and if the local educational agency is a party to the  
209 disagreement, any party to the proceeding may proceed either: (i) pursuant to Section 3 of Chapter 71; or (ii) to  
210 request a MAH pursuant to the provisions hereof.

211

212 (3) In either case, the moving party shall not be subject to a requirement of exhaustion of remedies as a  
213 condition to invoking the remedy chosen, except that a party to a MAT proceeding shall not invoke the MAH  
214 procedure herein provided for until that MAT procedure has failed to produce a solution acceptable to all parties  
215 within 45 days of the first date such problem was considered by the MAT.

216

217 (e) The executive office of health and human services shall, following a reasonable period for comment by the  
218 covered agencies, adopt regulations consistent with the following to govern the MAH for children with complex  
219 needs.

220

221 (f) A MAH shall be initiated by a complaint filed by or on behalf of a child with complex needs. Such  
222 complaint shall describe succinctly:

223

224 (1) the facts supporting the petitioner's eligibility to request a MAH;

225 (2) one or more permissible grounds for the complaint;

226 (3) the parties necessary for a resolution of the problem; and

227 (4) the relief requested.

228

229 The complaint shall identify whether or not the problem described has previously been reviewed by a MAT and  
230 whether it included all the parties identified in the complaint as necessary to a resolution of the problem.

231

232 (g) A child, or the child's parent or guardian, or a covered agency acting on behalf of a child may file a  
233 complaint alleging any of the following matters:

234

235 (1) failure of a covered agency to find an individual eligible for services;

236 (2) failure of a covered agency to provide services to an individual it has found eligible for its services;

237 (3) failure of covered agency to comply with controlling statutes, regulations, policies, guidelines or any

238 other written procedure or unwritten, but established practice that governs the actions of that Agency;

239 (4) the decision of a covered agency to suspend, reduce or terminate services, or the actions of the covered  
240 agency that have the effect of doing so;

241 (5) the decision of a covered agency that determines case coordination allocation and assignment among  
242 covered agencies;

243 (6) a challenge to the identification by a covered agency of the least restrictive setting;

244 (7) a challenge to a developed plan for the delivery of services by one or more covered agency; or

245 (8) a challenge to the decision of one or more covered agency regarding the rights of a  
246 child/parent/guardian with respect to the child's care and services.

247

248 (h) If the problem described in the complaint has not previously been reviewed by a MAT, the executive office  
249 of health and human services shall appoint a mediator, as described in subsection (j) who shall summon the  
250 child or the child's representative and the other parties identified in the complaint to a mediation meeting to be  
251 held on not less than 10 days prior advance notice or more than 20 days from the filing of the complaint.

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253 (i) Within 5 days of the filing of the complaint or 5 days after the failure of mediation pursuant to subsection (h)  
254 the executive office of health and human services shall assign a hearing officer. The hearing officer shall fix a  
255 date on not less than 10 days and not more than 20 days prior advance notice for a pre-hearing conference. At  
256 least 5 business days before such conference each party, other than the complainant, shall deliver to all  
257 participants a written response to the complaint, and all parties shall deliver lists of their principal witnesses and

258 all covered agencies shall make available to the other parties all documents relevant to the issues raised by the  
259 complaint. The hearing officer may limit the issues to be heard at the MAH and may make other rulings  
260 reasonably designed to expedite and facilitate the MAH, including rulings on production of documents. Upon  
261 agreement of the parties, the hearing officer may conduct an informal hearing.

262

263 (j) MAH hearing officers and mediators shall meet all the following qualifications.

264

265 (1) The individual has graduated from a law school accredited by the Commonwealth of Massachusetts or  
266 the American Bar Association;

267 (2) The individual is a United States or naturalized citizen;

268 (3) The individual has successfully completed an approved, basic mediation training of at least thirty hours  
269 and has met at least one of the following criteria: (i) has at least 1 year of professional experience as a  
270 mediator; (ii) is accountable to a dispute resolution organization which has been in existence for at least 3  
271 years; or (iii) has been appointed to mediate by a judicial or governmental body; and

272 (4) The individual has had training or experience in the field of behavioral health.

273

274 (k) Absent good cause, the MAH shall be scheduled to commence within 10 days of the pre-hearing conference.

275

276 (l) The hearing officer is empowered to:

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278 (1) issue subpoenas;

279 (2) place witnesses under oath;

280 (3) accept into the record and rule upon the acceptability of evidence. Formal rules of evidence shall not be  
281 followed, but the parties shall limit reliance on hearsay as proof of critical issues to be resolved;

282 (4) order initial or additional evaluations of the person whose service needs are in question. Such evaluations  
283 shall be subject to the provisions hereof regarding confidentiality;

- (5) issue such urgently needed interim orders for provision of or continuation of agency services as may be necessary for the health and safety of the child involved in the proceeding. Such orders shall remain in place, unless modified by the Hearing Officer until the final resolution of the MAH proceeding;
- (6) dismiss a party, if it clearly appears such party is not necessary to a resolution of the problem;
- (7) join a covered agency or a local educational agency if in the judgment of the hearing officer such agency is likely to be necessary to the resolution of the problem;
- (8) maintain jurisdiction for the purposes of implementation or modification of an order; and
- (9) issue such other rulings as are appropriate to ensuring a full, fair and orderly hearing.

(m) In addition to the powers of the MAH hearing officer described in subsection (l), the MAH hearing officer has the authority:

- (1) to order a covered agency to fund or provide any service or take any other action authorized by or consistent with the statutes, regulations, policies, guidelines or any other written procedure or unwritten, but established practice that governs the actions of that Agency;
- (2) to order a Covered Agency to cease from any actions occurring in the case that are not consistent with the statutes, regulations, policies, guidelines, written procedure or any other unwritten, but established, practice that governs the actions of that Agency;
- (3) to designate that a Covered Agency assume primary or ancillary responsibility for the coordination of service delivery for the child who is the subject of the Complaint and to require a Covered Agency participate in planning and implementation of service delivery;
- (4) to issue orders recognizing or clarifying the various rights and/or responsibilities, consistent with any provision of state or federal law, of any of the parties to the case, including the child himself;
- (5) to keep a case under jurisdiction/order a Covered Agency to report back to the Hearing Officer on progress/continue a case;
- (6) to order other relief necessary to ensure the health and safety of the child.

310 (n) The hearing officer, after hearing from the parties, will identify the issues to be addressed in an evaluation.

311 (1) The purpose of the evaluation is to provide information to the hearing officer and the parties to properly

312 conduct the MAH and/or to identify, develop and provide appropriate services for the child;

313 (2) The evaluation may be of the child himself, of programs or services being provided to or considered for

314 the child, of the practices or activities of a covered agency as they relate to the particular situation, or of

315 any other feature of the case for which the hearing officer determines that a professional assessment

316 would be beneficial;

317 (3) The evaluation of a child may be conducted only with the permission of parent or guardian of a minor

318 child or, when appropriate of the youth, or of an individual age 18 or older;

319 (4) Payment for the evaluation shall be made by a covered agency, as determined by the hearing officer.

320 Before seeking such funding, the parties must first identify and exhaust available insurance or other

321 entitlements for funding the evaluation;

322 (5) The evaluation will be available, upon completion, to all parties to the MAH;

323 (6) The evaluator must be a certified and licensed professional and must use accepted clinical tools;

324 (7) The evaluator may venture his or her opinion, but may not be relied upon to answer questions of legal

325 interpretation;

326 (8) The evaluation may not be used without the consent of the parent or guardian, or child over age 18, for

327 purposes beyond the MAH proceeding.

328

329 (o) All proceedings and all evaluations produced pursuant to subsection (l)(4) or pursuant to subsection (c) shall

330 be confidential to protect the privacy interests of the child. The records of the proceedings, evaluations and

331 decisions shall be redacted to preserve confidentiality.

332

333 (p) There shall be an audio-record preserved of the MAH in a manner which permits prompt preparation of a

334 transcript.

335

336 (q) Parties may agree to an informal hearing. Informal hearings shall be conducted without audio-record of  
337 proceedings, but each party to the hearing shall be obligated to deliver to the hearing officer by the close of the  
338 MAH a written statement of such party's best offer on the issues in the hearing. Within 10 days following the  
339 conclusion of the informal MAH, the hearing officer shall render a decision. The decision of the hearing officer  
340 shall be final without right of appeal.

341

342 (r) Within 20 days following the close of the evidentiary phase of the MAH, the hearing officer shall render a  
343 decision. Such decision shall state:

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- 345 (1) the services, if any, to be provided with some reasonable parameters fixing duration of such services;
- 346 (2) the agencies' relative responsibilities for providing and paying for same;
- 347 (3) the basic findings of fact upon which such rulings are based;
- 348 (4) the legal authority for the ruling.

349

350 The decision of the hearing officer is the final decision of the executive office of health and human services.

351

352 (s) Within 20 days of the hearing officer's decision, any party to the MAH adversely affected by the decision  
353 may serve notice of appeal of such decision to the Superior Court of Suffolk County or the Superior Court of  
354 the county in which the custodial parent of the child involved in the hearing resides. While the appeal is  
355 pending, each covered agency which is a participant in the MAH shall continue to provide services at the same  
356 level and character as the same were being provided when the appeal was initiated. Also, the hearing officer  
357 shall retain jurisdiction to issue new or modifications of existing interim protective orders pursuant to section  
358 (1)(5).

359

360 (t) The grounds for appeal of a MAH decision shall be limited to the following:

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(1) the decision of the hearing officer is arbitrary, capricious, or not supported by any substantial evidence;

or

(2) the decision of the hearing officer is contrary to law.

(u) An appeal of a MAH decision shall be conducted in accordance with chapter 30A, section 14.

Notwithstanding any general or special law to the contrary, interim service orders issued by the hearing officer pursuant to subsection (l)(5) or subsection (m) shall remain in force until the appeal is resolved.

(v) In event a decision of a hearing officer in a MAH proceeding has become or is final whether by reason of its being an order which pursuant section (l)(5) is non-appealable prior to the ultimate resolution of the MAH proceeding, by reason of no appeal being taken, or by reason of being affirmed on appeal, any party may request that a Superior Court to which a final decision in such proceeding might be appealed enforce same by decree of contempt or other decree available to such court for enforcement of its own orders.

(w) The holdings of the MAH hearing officer in a formal or informal proceeding are binding upon the parties to that proceeding. The holdings of the MAH hearing officer in a formal proceeding have precedential value for all subsequent MAH proceedings. The holdings of the MAH hearing officer in a particular formal proceeding have precedential value in all subsequent administrative proceedings undertaken pursuant to legal authority of the covered agencies and such holdings have instructive value to the general course of conduct of covered agencies. The written decisions of the MAH hearing officer shall be maintained in the offices of EOHHS and shall be available, in a form which protects the identity of all parties, free of charge, to the public upon request. The decisions, similarly redacted, shall also be posted on the executive office of health and human services' website in an easily searchable fashion.

(x) The procedures described herein are voluntary and are not in derogation of any rights to hearing or appeal that a child may otherwise have under state or federal law or regulation.



388

389 SECTION 5. Section 2 of chapter 15D of the General Laws is hereby amended by inserting after the first  
390 paragraph the following new paragraph:-

391 The department shall:-

392 (1) provide behavioral health consultation services in early education and care programs for children in  
393 the commonwealth. Preference shall be given to those services designed to limit the number of  
394 expulsions and suspensions from these programs. The department shall issue a report, at least annually  
395 not later than February 15 of each year, estimating the number of pre-school suspensions and  
396 expulsions that occur each year in the commonwealth, the relative frequency of each type of mental  
397 illness or behavioral issues among children receiving programs or services from the department, a  
398 breakdown of the race and ethnicity of the children served, the capacity of the existing early education  
399 and care system to provide such behavioral health services, and an analysis of the most effective  
400 intervention and prevention strategies. The report shall be provided, along with recommendations for  
401 legislative or regulatory changes, including strategies to improve the delivery of comprehensive  
402 services and to improve collaboration and linkages between and among early education and care and  
403 human services providers, to the secretary of the executive office of health and human services, the  
404 secretary of administration and finance, the senate president, the speaker of the house, the chairs of the  
405 house and senate ways and means committees and the house and senate chairs of the joint committee on  
406 education.

407 (2) The department may work with the children's behavioral health research and evaluation council,  
408 created by Section 1, and contractors whom the council selects, to provide the department with  
409 technical assistance related to its duties.

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411 SECTION 6. Section 1 of chapter 19 of the General Laws is hereby amended by inserting after the last  
412 paragraph the following paragraph:-

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The department of mental health shall be the leading voice and authority in the design of the commonwealth’s behavioral health services for children.

(a) To achieve this goal, the department of social services, the department of youth services, the department of public health, the department of mental retardation, the department of education, the department of early education and care and the office of medicaid shall not make any decision substantially affecting the financing, operation or regulation of, or contracts pertaining to, the provision of behavioral health services to children in the commonwealth until it has consulted with the department of mental health, and received from the commissioner of mental health a report commenting on the decision, which the agency seeking such consultation shall take into consideration before any such final decision is made.

(b) The commissioner of mental health shall have 15 business days from the date of notice is given regarding the proposed decision to issue such report.

(c) If the agency seeking consultation disagrees with the comments of the commissioner of mental health, it shall inform the secretary of health and human services of the disagreement and provide the secretary a reasonable opportunity to mediate and resolve said disagreements.

(d) The department of mental health shall publish on a regular basis, but no less than annually, a report on the state of children’s behavioral health in the commonwealth, documenting in narrative and statistical formats the demand, services delivered, cost of services, and service gaps for children across state agencies, and the specific measures that, in the judgment of the department of mental health, are necessary and appropriate to fill such gaps. In its report, the department of mental health shall describe the evidence-based research that has occurred during the report year to determine the effectiveness of the services delivered.

439 SECTION 7. Chapter 29 of the General Laws is hereby amended by inserting after section 2NNN the following  
440 section: -

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442 Section 2000. There shall be established and set up on the books of the Commonwealth a separate  
443 fund, consisting of monies appropriated to the fund by the general court, known as the Interim Residential  
444 Placement Fund. The department of mental health shall use this fund to expedite the discharge of children and  
445 adolescents with behavioral health needs from inpatient to residential or community-based settings.

446

447 (a) Any child enrolled in the masshealth program who is also a client of another state agency within the  
448 executive office of health and human services, and who has been determined no longer to need an inpatient  
449 level of service by both the inpatient facility and the relevant utilization review team, may be eligible to access  
450 said funds.

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452 (b) Funds may be used to pay for up to 30 days of interim residential, step-down or community-based services  
453 for an individual child.

454

455 (c) The department of mental health shall enter into such interagency agreements as are necessary to carry out  
456 the purposes of this section, including such agreements necessary to maximize federal reimbursement for  
457 children eligible for masshealth services.

458

459 (d) The department of mental health shall within the 30 day time period utilize the multi-agency teams set forth  
460 in section 3, or similar previously existing interagency groups, to develop a permanent treatment plan. The  
461 treatment plan shall specifically assign case management and funding responsibilities among relevant state  
462 agencies and their contractors, including but not limited to, the office of medicaid, the department of mental  
463 health, the department of social services, the department of mental retardation, the department of youth services  
464 and the department of public health.

465

466 (e) Where relevant to the child or adolescent's permanent treatment plan, the department shall request  
467 participation from the appropriate local education authority. In developing the treatment plan, the multi agency  
468 team may propose a financial contribution from the local education authority. This proposal shall be admissible  
469 evidence in any special education hearing or proceeding arising under the provision of Chapter 71B.

470

471 SECTION 8. Section 22 of chapter 32A of the General Laws is hereby amended by striking out subsection (a)  
472 and inserting in place thereof the following subsection:-

473

474 (a) The commission shall provide to any active or retired employee of the commonwealth,  
475 who is insured under the group insurance commission, coverage on a nondiscriminatory basis for the  
476 diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic  
477 and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM"  
478 or the most recent edition of the International Classification of Diseases and Related Health Problems,  
479 hereinafter referred to as "the ICD".

480

481 SECTION 9. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (c) and  
482 inserting in place thereof the following subsection:-

483

484 (c) In addition to the coverage established pursuant to this section, any such health plan shall also provide  
485 coverage on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and  
486 treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of  
487 Mental Health and Developmental Disorders of Infancy and Early Childhood, Diagnostic and Statistical Manual  
488 of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of  
489 the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

490

491 SECTION 10. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (e).

492

493 SECTION 11. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (g) and  
494 inserting in place thereof the following:-

495

496 (g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and  
497 outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental  
498 disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents  
499 under the age of 19, shall include any and all collateral services.

500

501 (2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide  
502 such services, in a facility under the direction and supervision of the department of mental health, in a private  
503 mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the  
504 department of public health. Intermediate services for behavioral health needs shall be provided along a  
505 continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the  
506 continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum  
507 of intermediate services shall be of sufficient extent and variety to address the complex needs of children with  
508 behavioral health needs. Intermediate services shall include, but not be limited to, Level III community-based  
509 detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed  
510 or approved by the department of public health or the department of mental health. Outpatient services may be  
511 provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public  
512 health, a public community mental health center, a professional office, or home-based services, provided,  
513 however, services delivered in such offices or settings are rendered by a licensed mental health professional  
514 acting within the scope of his license.

515

516 SECTION 12. Subsection (i) of said section 22 of said chapter 32A is hereby further amended by adding after  
517 the last paragraph, the following new paragraph:-

518

519 For purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental  
520 health professional with parties determined by the licensed mental health professional to be relevant or  
521 necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan  
522 for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the  
523 treatment plan as needed to ensure appropriate care.

524

525 SECTION 13. Chapter 71 of the General Laws is hereby amended by striking section 53 and inserting in place  
526 thereof the following:—

527

528 Section 53. The school committee shall appoint school physicians; nurse practitioners and registered nurses with  
529 the department of education school nurse licensure, shall assign them to the public schools within its  
530 jurisdiction, shall provide them with all the proper facilities for the performance of their duties, and shall assign  
531 one or more physicians or nurse practitioners operating under the direction of the physician to the examination  
532 of children who apply for health certificates required by section eighty-seven of chapter one hundred forty-nine,  
533 but in cities where the medical inspection hereinafter prescribed is substantially provided by the board of health,  
534 said board shall appoint and assign the school physicians; nurse practitioners and registered nurses with  
535 department of education school nurse licensure, provided however that school districts must meet minimum  
536 staffing requirements of school physicians; nurse practitioners and registered nurses with department of  
537 education school nurse licensure established by the Department of Public Health and that each school with five  
538 hundred or more students shall be assigned at minimum one full-time physician, nurse practitioner or registered  
539 nurse with department of education school nurse licensure.

540

541 SECTION 14. Clause (b) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby  
542 amended by striking out the figure “18” and inserting in place thereof the following figure:– 20.

543 SECTION 15. Clause (c) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby amended  
544 by striking out the figure “18” and inserting in place thereof the following figure:– 20.

545 SECTION 16. Clause (d) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby  
546 amended by striking out the figure “19” and inserting in place thereof the figure:– 21.

547 SECTION 17. Chapter 118E of the General Laws is hereby amended by inserting after section 10F, the  
548 following new section: -

549

550           Section 10G. (a) The division shall provide coverage for the cost of any and all collateral mental health  
551 services to children and adolescent members under the age of 19 to be performed by a licensed mental health  
552 professional. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage  
553 for mental health services pursuant to any law or regulation of the commonwealth or the United States or under  
554 the terms or provisions of any policy, contract, or certificate. For the purposes of this section, "collateral  
555 services" shall mean any and all consultation by a licensed mental health professional with parties determined  
556 by said licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent  
557 under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a  
558 treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate  
559 care.

560

561 (b) For purposes of this section, "licensed mental health professional" shall mean a licensed physician who  
562 specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a  
563 licensed mental health counselor, a licensed educational psychologist or a licensed nurse mental health clinical  
564 specialist.

565 SECTION 18. Subsection 1 of section 16C of chapter 118E of the General Laws is hereby amended by  
566 striking out the figure “18” and inserting in place thereof the figure:– 20.

567 SECTION 19. Section 47B of chapter 175 of the General Laws is hereby amended by striking out subsection  
568 (a) and inserting in place thereof the following subsection:-

569  
570 (a) Any individual policy of accident and sickness insurance issued pursuant to section  
571 108, which provides hospital expense and surgical expense insurance, and any group blanket or general policy  
572 of accident and sickness insurance issued pursuant to section 110, which provides hospital expense and surgical  
573 expense insurance, which is issued or renewed within or without the commonwealth, shall provide mental  
574 health benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a  
575 principal place of employment in the commonwealth for the diagnosis and treatment of any mental disorders, as  
576 described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric  
577 Association, referred to in this section as “the DSM” or the most recent edition of the International  
578 Classification of Diseases and Related Health Problems, hereinafter referred to as “the ICD”.

579  
580 SECTION 20. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (c)  
581 and inserting in place thereof the following subsection:-

582  
583 (c) In addition to the mental health benefits established pursuant to this section, any such policy shall also  
584 provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis  
585 and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of  
586 Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical  
587 Manual of the American Psychiatric Association, referred to in this section as “the DSM” or the most recent  
588 edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as  
589 “the ICD”.



590

591 SECTION 21. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (e).

592

593 SECTION 22. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (g)

594 and inserting in place thereof the following:-

595

596 (g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and  
597 outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental  
598 disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents  
599 under the age of 19, shall include any and all collateral services.

600

601 (2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide  
602 such services, in a facility under the direction and supervision of the department of mental health, in a private  
603 mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the  
604 department of public health. Intermediate services for behavioral health needs shall be provided along a  
605 continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the  
606 continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum  
607 of intermediate services shall be of sufficient extent and variety to address the complex needs of children with  
608 behavioral health needs.

609 Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute  
610 residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the  
611 department of public health or the department of mental health. Outpatient services may be provided in a  
612 licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public  
613 community mental health center, a professional office, or home-based services, provided, however, services  
614 delivered in such offices or settings are rendered by a licensed mental health professional acting within the  
615 scope of his license.

616

617 SECTION 23. Subsection (i) of said section 47B of said chapter 175 is hereby further amended by adding, after  
618 the last paragraph, the following:-

619

620 For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed  
621 mental health professional with parties determined by said licensed mental health professional to be relevant or  
622 necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan  
623 for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the  
624 treatment plan as needed to ensure appropriate care.

625

626 SECTION 24. Section 8A of chapter 176A of the General Laws is hereby amended by striking out subsection  
627 (a) and inserting in place thereof the following subsection:-

628

629 (a) Any contract between a subscriber and the corporation under an individual or group hospital  
630 service plan which is issued or renewed within or without the commonwealth shall provide  
631 mental health benefits on a non-discriminatory basis to residents of the commonwealth and to all individual  
632 subscribers and members and group members having a principal place of employment in the commonwealth  
633 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the  
634 Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the  
635 DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems,  
636 hereinafter referred to as "the ICD".

637

638 SECTION 25. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (c)  
639 and inserting in place thereof the following subsection:-

640

641 (c) In addition to the mental health benefits established pursuant to this section, any such contract shall also  
642 provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis  
643 and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification  
644 of Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical  
645 Manual of the American Psychiatric Association, referred to in this section as “the DSM” or the most recent  
646 edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as  
647 “the ICD”.

648

649 SECTION 26. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (e).

650

651 SECTION 27. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (g)  
652 and inserting in place thereof the following:-

653

654 (g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and  
655 outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental  
656 disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents  
657 under the age of 19, shall include any and all collateral services.

658

659 (2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide  
660 such services, in a facility under the direction and supervision of the department of mental health, in a private  
661 mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the  
662 department of public health. Intermediate services for behavioral health needs shall be provided along a  
663 continuum that is sufficient to respond to members’ behavioral health needs in a manner that is equivalent to the  
664 continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum  
665 of intermediate services shall be of sufficient extent and variety to address the complex needs of children with  
666 behavioral health needs.

667 Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute  
668 residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the  
669 department of public health or the department of mental health. Outpatient services may be provided in a  
670 licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public  
671 community mental health center, a professional office, or home-based services, provided, however, services  
672 delivered in such offices or settings are rendered by a licensed mental health professional acting within the  
673 scope of his license.

674

675 SECTION 28. Subsection (i) of said section 8A of said chapter 176A is hereby further amended by adding, after  
676 the last paragraph, the following new paragraph:-

677

678 For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed  
679 mental health professional with parties determined by said licensed mental health professional to be relevant or  
680 necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan  
681 for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the  
682 treatment plan as needed to ensure appropriate care.

683

684 SECTION 29. Section 4A of chapter 176B of the General Laws is hereby amended by striking out subsection  
685 (a) and inserting in place thereof the following subsection:-

686

687 (a) Any subscription certificate under an individual or group medical service agreement which is issued or  
688 renewed within or without the commonwealth shall provide mental health benefits on a non-discriminatory  
689 basis to residents of the commonwealth and to all individual subscribers and members within the  
690 commonwealth and to all group members having a principal place of employment in the commonwealth for the  
691 diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic and  
692 Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most

693 recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred  
694 to as “the ICD”.

695

696 SECTION 30. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (c)  
697 and inserting in place thereof the following subsection:-

698

699 (c) In addition to the mental health benefits established pursuant to this section, any such subscription  
700 certificate shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of  
701 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the  
702 Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the  
703 Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as “the  
704 DSM” or the most recent edition of the International Classification of Diseases and Related Health Problems,  
705 hereinafter referred to as “the ICD”.

706

707 SECTION 31. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (e).

708

709 SECTION 32. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (g)  
710 and inserting in place thereof the following:-

711

712 (g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and  
713 outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental  
714 disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents  
715 under the age of 19, shall include any and all collateral services.

716

717 (2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide  
718 such services, in a facility under the direction and supervision of the department of mental health, in a private

719 mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the  
720 department of public health. Intermediate services for behavioral health needs shall be provided along a  
721 continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the  
722 continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum  
723 of intermediate services shall be of sufficient extent and variety to address the complex needs of children with  
724 behavioral health needs. Intermediate services shall include, but not be limited to, Level III community-based  
725 detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed  
726 or approved by the department of public health or the department of mental health. Outpatient services may be  
727 provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public  
728 health, a public community mental health center, a professional office, or home-based services, provided,  
729 however, services delivered in such offices or settings are rendered by a licensed mental health professional  
730 acting within the scope of his license.

731

732 SECTION 33. Subsection (i) of said section 4A of said chapter 176B is hereby amended by adding, after the last  
733 paragraph, the following new paragraph:-

734

735 For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed  
736 mental health professional with parties determined by said licensed mental health professional to be relevant or  
737 necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan  
738 for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the  
739 treatment plan as needed to ensure appropriate care.

740

741 SECTION 34. Section 1 of chapter 176G of the General Laws is hereby amended by adding after the definition  
742 of "carrier" the following:-

743

744 “Carve out”, a company organized under the laws of the commonwealth or organized under the laws of  
745 another state and qualified to do business in the commonwealth, that has entered into a contractual arrangement  
746 with a health maintenance organization to provide or arrange for the provision of behavioral health services to  
747 voluntarily enrolled members of said health maintenance organization.

748

749 SECTION 35. Section 4M of chapter 176G of the General Laws is hereby amended by striking out subsection  
750 (a) and inserting in place thereof the following subsection:-

751

752 (a) A health maintenance contract issued or renewed within or without the commonwealth shall provide mental  
753 health benefits on a non-discriminatory basis to residents of the commonwealth and to all members or enrollees  
754 having a principal place of employment in the commonwealth for the diagnosis and treatment of any mental  
755 disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American  
756 Psychiatric Association, referred to in this section as “the DSM” or the most recent edition of the International  
757 Classification of Diseases and Related Health Problems, hereinafter referred to as “the ICD”.

758

759 SECTION 36. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (c)  
760 and inserting in place thereof the following subsection:-

761

762 (c) In addition to the mental health benefits established pursuant to this section, any such health maintenance  
763 contract shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of  
764 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the  
765 Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the  
766 Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as “the  
767 DSM” or the most recent edition of the International Classification of Diseases and Related Health Problems,  
768 hereinafter referred to as “the ICD”.

769

770 SECTION 37. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (e).

771

772 SECTION 38. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (g)

773 and inserting in place thereof the following:-

774

775 (g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and

776 outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental

777 disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents

778 under the age of 19, shall include any and all collateral services.

779

780 (2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide

781 such services, in a facility under the direction and supervision of the department of mental health, in a private

782 mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the

783 department of public health. Intermediate services for behavioral health needs shall be provided along a

784 continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the

785 continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum

786 of intermediate services shall be of sufficient extent and variety to address the complex needs of children with

787 behavioral health needs.

788 Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute

789 residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the

790 department of public health or the department of mental health. Outpatient services may be provided in a

791 licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public

792 community mental health center, a professional office, or home-based services, provided, however, services

793 delivered in such offices or settings are rendered by a licensed mental health professional acting within the

794 scope of his license.

795



796 SECTION 39. Said section 4M of said chapter 176G is hereby further amended by adding, after the last  
797 paragraph (i), the following new paragraph:-  
798

799 For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed  
800 mental health professional with parties determined by said licensed mental health professional to be relevant or  
801 necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan  
802 for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the  
803 treatment plan as needed to ensure appropriate care.  
804

805 SECTION 40. Section 10 of chapter 176G of the General Laws is hereby amended by inserting after the phrase,  
806 "Every health maintenance organization", every time it appears, the following words:- and carve out.  
807

808 SECTION 41. Chapter 176G of the General Laws is hereby amended by inserting after section 29 the following  
809 new sections:-  
810

811 Section 30. Any health maintenance organization for whom a carve-out is administering behavioral and  
812 mental health services, shall be responsible for the carve-out's failure to comply with the requirements of said  
813 chapter 176G in the same manner as if the health maintenance organization failed to comply with said  
814 provisions.  
815

816 SECTION 42. Chapter 176G of the General Laws is hereby amended by inserting after section 30 the following  
817 section:-  
818

819 Section 31. Any health maintenance organization for whom a carve-out is administering behavioral and  
820 mental health services, shall state on its enrollment card the name of the carve-out and its telephone number to  
821 ensure coverage for such services.

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SECTION 43. Chapter 176G of the General Laws is hereby amended by adding the following section:-

Section 32. (a) A carve out shall provide to at least one adult insured in each household upon enrollment, and to a prospective insured upon request, the following information

(1) a statement that physician profiling information, so-called, may be available from the Board of Registration in Medicine for physicians licensed to practice in Massachusetts;

(2) a summary description of the process by which clinical guidelines and utilization review criteria are developed;

(3) a notice to insured regarding emergency medical conditions that states all of the following:

(i) that insured have the opportunity to obtain health care services for an emergency medical condition, including the option of calling the local pre-hospital emergency medical service system by dialing the emergency telephone access number 911, or its local equivalent, whenever the insured is confronted with an emergency medical condition which in the judgment of a prudent layperson would require pre-hospital emergency services;

(ii) that no insured shall in any way be discouraged from using the local pre-hospital emergency medical service system, the 911 telephone number, or the local equivalent;

(iii) that no insured will be denied coverage for medical and transportation expenses incurred as a result of such emergency medical condition; and

(iv) if the carve out requires an insured to contact either the carve out or its designee or the primary care physician of the insured within 48 hours of receiving emergency services, that notification already given to the carve out, designee or primary care physician by the attending emergency physician shall satisfy that requirement.

(4) a statement that the Office of Patient Protection, as described in chapter 176O and regulations promulgate pursuant thereto, is available to the insured or prospective insured.

(i) The information required by this section may be contained in the evidence of coverage and need not be provided in a separate document.

(ii) Every disclosure described in this section must contain the effective date, date of issue and, if applicable, expiration date.

(iii) Carve outs shall submit material changes to the disclosures required by this section to the Bureau at least 30 days before their effective dates.

(iv) Carve outs shall submit material changes to the disclosures required by to at least one adult insured in every household residing in Massachusetts at least once every two years.

(v) A carve out that provides specified services through a workers' compensation preferred provider arrangement shall be deemed to have met the requirements of this section if it has met the requirements of 211 CMR 112.00 and 452 CMR 6.00.

872 SECTION 44. Subsection (a) of Section 7 of chapter 176O of the General Laws is hereby further amended by  
873 inserting after clause (6) the following new clause:-

874

875 (7) a statement that an insured has the right to request referral assistance from a carrier if the insured, or  
876 his or her primary care physician, has difficulty identifying services within the carrier's network; that the carrier  
877 shall, upon request by the insured, identify and confirm the availability of these services directly; and that if  
878 necessary, the carrier must obtain services out-of-network if they are unavailable from within the network.

879

880 SECTION 45. Subsection (b) of Section 7 of chapter 176O of the General Laws is hereby further amended by  
881 inserting after clause (4) the following clause:-

882

883 (5) a report, submitted annually, that details the following: the number of times per year an insured  
884 seeks assistance from the carrier in obtaining a referral for inpatient mental and behavioral health services;  
885 outpatient mental and behavioral health services; and for those inpatient and outpatient services obtained that  
886 are provided out-of-network due to their unavailability within the network. The reporting for each of these 3  
887 categories must list adults and children separately. The reporting must also be further sub-divided into regional  
888 totals, the geographic regions as defined by the department of mental health in accordance with 104 CMR  
889 26.02.

890

891 SECTION 46. (a) Notwithstanding any general or special law to the contrary, the office of medicaid shall  
892 convene a working group on the early identification of developmental, mental health, and substance abuse  
893 problems in the pediatric primary care setting. The working group shall include representatives from the  
894 pediatric, mental health, and substance abuse communities, as well as patient and child advocacy organizations.

895

896 (1) The working group shall review the office's current regulations regarding the early and periodic screening,  
897 diagnosis and treatment program, and make recommendations for changes, as appropriate, in the periodicity of

898 said screenings, the recommended tools to be used for said screenings, and the appropriate treatment protocols  
899 when screening reveals the need for further treatment. The working group shall also make recommendations  
900 regarding training and education strategies for pediatric providers in the use of recommended screening tools.  
901

902 (b) Notwithstanding any general or special law to the contrary, the office of medicaid and the division of health  
903 care finance and policy shall develop one or more reimbursement rates and billing codes for use by pediatric  
904 providers conducting developmental, mental health, or substance abuse screenings. Said rates shall be  
905 reasonably calculated to cover the cost of screening tools, and the additional time commitment necessary to  
906 screen, score and interpret the results. Screenings shall be reimbursed separately from the standard office visit  
907 case rate for children enrolled in the masshealth program. The office of medicaid shall require that any  
908 managed care organization contracting with the state to provide services to children enrolled in the masshealth  
909 program shall separately reimburse for such services.

910 SECTION 47. Notwithstanding any general or special law to the contrary, the department of education shall, no  
911 later than December 31, 2008, develop and pilot in no less than 10 school districts evaluation criteria and  
912 benchmarks for assessing the capacity of school districts and individual schools to address student behavioral  
913 health issues. The evaluation criteria and benchmarks shall facilitate a school districts ability to assess its  
914 current utilization, staffing, capacity and funding of behavioral health services, and shall allow for aggregation  
915 of data on a statewide level.

916 In the development of the evaluation criteria and benchmarks, the department shall engage public and private  
917 entities who are responsible for servicing these students. The evaluation criteria and benchmarks shall build  
918 upon existing research, programs and initiatives related to addressing behavioral health issues in the school  
919 setting. The evaluation criteria and benchmarks shall take into consideration, at a minimum, the following:

920 (a) School enrollment data, including the number of students enrolled in special education programs with  
921 identified behavioral health needs. To the extent possible, the evaluation criteria shall assist schools in  
922 projecting the prevalence of behavioral health concerns at the district and individual school level;

923 (b) The staffing available to address student behavioral health concerns, including both dedicated school  
924 personnel and contracted personnel. The staffing assessment shall consider the education and qualifications of  
925 said personnel, their level of experience, and their job titles or job classifications;

926 (c) The availability and utilization of school counseling services, and external referral resources available,

927 (d) The use of specific health, anti-bullying, anti-violence or other curricula in the school designed to  
928 address behavioral health concerns.

929 The department shall serve as the lead agency for providing assistance to pilot districts in the use of the  
930 evaluation criteria and benchmarks. Agencies or other public entities that the department determines are  
931 necessary to assist in this effort shall provide such assistance.

932 The department shall file any comprehensive report or strategy developed under this section with the joint  
933 committee on education, arts and humanities, the joint committee on mental health and substance abuse and the  
934 joint committee on children and families.

935 SECTION 48. Notwithstanding any general or special law to the contrary, the masshealth behavioral health  
936 contractor, in collaboration with the department of mental health and the department of education, shall develop  
937 a proposal for the provision of mental health consultative services to schools.

938 The proposal, to the extent possible, shall adapt the Massachusetts Child Psychiatry Access Project.

939 Consultative services available under this proposal shall include emergency triage, prevention, early

940 intervention and classroom based approaches to mental health care, and shall provide for teacher and staff  
941 training, and parent support, in effective mental health identification and treatment strategies.

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